

PAUL. WEISS, RIFKIND. WHARTON & GARRISON LLP

1815 L STREET, NW  
WASHINGTON, DC 20036-5694  
TELEPHONE (202) 223-7300  
FACSIMILE (202) 223-7420

LLOYD K. GARRISON (1946-1991)  
RANDOLPH E. PAUL (1946-1990)  
SIMON H. RIFKIND (1950-1995)  
LOUIS S. WEISS (1927-1950)  
JOHN F. WHARTON (1927-1977)

1285 AVENUE OF THE AMERICAS  
NEW YORK, NY 10019-6064  
TELEPHONE (212) 373-3000  
FACSIMILE (212) 757-3990

82, RUE DU FAUBOURG SAINT-HONORE  
75008 PARIS, FRANCE  
TELEPHONE (33 1) 53 43 14 14  
FACSIMILE (33 1) 53 43 00 23

FUKOKU SEIMEI BUILDING  
2-2 UCHISAIWAICHO 2-CHOME  
CHIYODA-KU, TOKYO 100-0011, JAPAN  
TELEPHONE (81-3) 3597-8101  
FACSIMILE (81-3) 3597-8120

2918 CHINA WORLD TOWER II  
NO. 1 JIANGUOMENWAI DAJIE  
BEIJING, 100004  
PEOPLE'S REPUBLIC OF CHINA  
TELEPHONE (86-10) 6505-6822  
FACSIMILE (86-10) 6505-6830

12TH FLOOR, HONG KONG CLUB BUILDING  
3A CHATER ROAD, CENTRAL  
HONG KONG  
TELEPHONE (852) 2536-9933  
FACSIMILE (852) 2536-9922

ALDER CASTLE  
10 NOBLE STREET  
LONDON EC2V 7JU, U.K.  
TELEPHONE (44 20) 7367 1600  
FACSIMILE (44 20) 7367 1650

PARTNERS RESIDENT IN WASHINGTON

HENK BRANDS  
ROBERT E. MONTGOMERY, JR.  
ROBERT P. PARKER  
DALE M. SARRO  
PHILLIP L. SPECTOR  
STUART G. STEINGOLD

WARREN B. RUDMAN, OF COUNSEL

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JOHN C. KENNEDY\*  
FRED KINMONTH\*  
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DAVID K. LAKHDHIR  
JOHN E. LANGE\*  
DANIEL J. LEFFELL\*  
MARTIN LONDON  
JEFFREY D. MARELL\*  
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VALERIE E. RADWANER\*  
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SIDNEY S. ROSENBERG\*  
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ANDREW N. ROSENBERG\*  
STEVEN B. ROSENFELD  
PETER J. ROTHENBERG\*  
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JEFFREY D. SAFERSTEIN\*  
JEFFREY B. SAMUELS\*  
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STEPHEN J. SHIMSHAK\*  
DAVID R. SICULAR\*  
MOSES SILVERMAN\*  
STEVEN SIMKIN\*  
ROBERT S. SMITH  
MARILYN SOBEL\*  
AIDAN SYNNOTT\*  
JUDITH R. THOYER\*  
MARK A. UNDERBERG\*  
MARIA A. VULLO\*  
THEODORE V. WELLS, JR.  
SEVEN L. WOLFRAM\*  
LISA YANO\*  
JORDAN W. YARETT\*  
ALFRED D. YOUNGWOOD

\*NOT AN ACTIVE MEMBER OF THE DC BAR

WRITER'S DIRECT DIAL NUMBER

202-223-7373

WRITER'S DIRECT FACSIMILE

202-223-7425

WRITER'S DIRECT E-MAIL ADDRESS

hbrands@paulweiss.com

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, D. C. 20554

Re: **Ex Parte:** Carriage of Digital Television Broadcast Signals, CS  
Docket No. 98-120; Inquiry Concerning High-speed Access to the  
Internet Over Cable and Other Facilities, GN Docket No. 00-185,  
CS Docket No. 02-52; Appropriate Framework for Broadband  
Access to the Internet over Wireline Facilities, CC Docket Nos. 95-  
20, 98-10, 02-33

Dear Ms. Dortch:

On January 29, 2003, Marc Apfelbaum, Executive Vice President and General Counsel, Time Warner Cable, Steven Teplitz, Vice President and Associate General Counsel, AOL Time Warner Inc., and the undersigned, of Paul, Weiss, Rifkind, Wharton & Gamson, LLP, met with Susan Eid, Legal Advisor to Chairman Powell.

The main purpose of the meeting was to discuss issues relating to the above-captioned proceeding concerning the carriage of digital television broadcast signals. We argued that the Commission could not constitutionally require cable operators to carry broadcasters' digital "multicast" signals. In particular, we argued that such a requirement could not be defended on the rationale of the Supreme Court's *Turner* decisions. The administrative record does not and could not demonstrate that such a requirement is necessary to preserve the viability of broadcast television. Moreover, the burden imposed

on the speech of cable operators and programmers would be far greater than the burden sustained in *Turner*.

In addition, we discussed issues relating to the other proceedings mentioned in the caption of this letter. We argued that the Commission can lawfully decline to impose ISP access obligations on cable operators if the Commission decides not to eliminate ISP access obligations applicable to incumbent LECs.

Pursuant to Section 1.1206(b) of the Commission's rules, two copies of this notice are being provided to you for inclusion in the public record in the above-captioned proceeding. Should you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to be 'H. Brands', with a long horizontal flourish extending to the right.

Henk Brands  
*Counsel for Time Warner Cable*

cc: Susan Eid